

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON, OHIO

ELWOOD H. JONES

Petitioner

Case No. 1:01-cv-564

v.

District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

MARGARET BAGLEY, Warden,

Respondent.

**Elwood H. Jones's Motion to Amend
Petition (Dkt. 15)**

Elwood H. Jones moves this Court for an order permitting the addition of the following to Ground Three:

C1. *The Government violated its obligation under *Napue v. Illinois*, 360 U.S. 264 (1959); *Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972); and *Kyles v. Whitley*, 514 U.S. 419 (1995); by failing to disclose evidence favorable to the defense.*

The Government failed to disclose many documents. These were obtained too late for inclusion in the state-court-postconviction proceedings.

After the completion of the trial level post-conviction, Petitioner obtained a copy of the hepatitis testing done by the government.¹

In the discovery process in this Court, the Government produced the Hamilton County Prosecutor's file and the Blue Ash Police Department's file. A review of these files reveals a variety of evidence that should have been disclosed to the defense at trial.

¹ Exhibits 2A and 2B.

For example, the Government failed to disclose the contradictory identification of the pendant obtained from family members at an interview in New York within a couple of weeks of the homicide.²

For example, the Government failed to disclose the complaints of other hotel guests about intruders.³

For example, the Government failed to disclose the written statements or notes of interviews obtained at the time of the initial investigation including those Demetrius H. Williams⁴ and Ryan Norman.⁵

**Elwood H. Jones's Memorandum in Support of
Motion to Amend Petition (Dkt. 15)**

This amendment encompasses the information provided by the Government under the document production ordered earlier in the case.

Thus, this Court should grant the motion to amend the petition.

Respectfully Submitted,

s/Michael L. Monta

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² Ham Pros. 798-99, 1310-12,

³ Ham Pros. 1327,

⁴ Ham Pros. 507& 509.

⁵ Ham Pros 1508-10, 1711-12

s/Gary W. Crim

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Certificate of Service

I, Gary W. Crim, counsel for Elwood H. Jones, certify that on November 13, 2007, I served a copy of this Motion to Amend Petition (Dkt. 15) on Counsel for the Warden, Sarah A. Hadacek and Stephen E. Maher, by emailing it to shadacek@ag.state.oh.us; smaher@ag.state.oh.us.

s/Gary W. Crim

GARY W. CRIM